

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.955 of 2008

JUDGMENT:

1. This revision is filed by the petitioner-accused against the judgment dated 30.6.2008 passed by the I Additional District & Sessions Judge, Srikakulam in CrI.A.No.31 of 2007.

2. Brief facts of the case are as follows:

On 29.7.2005 at about 5.45 hours, the accused drove the lorry bearing No.AP 16/T.4303 in a rash and negligent manner with a high speed without blowing horn from Ranastalam side towards Srikakulam side with a load. When he reached NH5 near Ariam-Akkivalasa dashed against one Patnala Venkata Satyanarayana (hereinafter called as 'the deceased'), who was proceeding on his cycle, as a result, the deceased fell down and sustained multiple fractures to his both legs and the said fractures resulted in his instantaneous death. One Patnana Appala Narasimha Sastry gave a report to the police, basing on which a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned Judicial Magistrate of First Class, Srikakulam took the same on file as C.C.No.463 of 2005 for the offence under Section 304-A IPC against the accused.

4. During the course of trial, P.Ws. 1 to 11 were examined and Exs.P1 to P7 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

5. On appreciation of oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 304-A IPC, convicted and sentenced him to undergo simple imprisonment for a period of two years and to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for one month. Aggrieved by the same, the accused filed Crl.A.No.31 of 2007 before the I Additional District & Sessions Judge, Srikakulam. In the appeal, the conviction recorded by the trial Court against the petitioner was confirmed. But the sentence of two years simple imprisonment is modified to that of six months. The sentence of fine is confirmed. Aggrieved by the judgment of the lower appellate Court, the petitioner filed this revision.

6. Learned Counsel for the petitioner submitted that P.Ws.2 and 3 are planted witnesses and that the prosecution failed to prove that the petitioner-accused drove the vehicle in a rash and negligent manner and that the prosecution failed to prove the ingredients of Section 304-A IPC.

7. Learned Additional Public Prosecutor submitted that there are no grounds to interfere with the judgment under revision.

8. From the evidence on record, it is evident that P.Ws.2 and 3 categorically stated that the petitioner-accused drove the crime vehicle and caused the accident resulting in the death of the deceased. Both the Courts below gave concurrent findings after considering all the contentions raised on behalf of the accused. The findings of both the Courts below are in accordance with law. Therefore, this Court is not inclined to interfere with the judgment under revision.

9. At this juncture, the learned Counsel for the petitioner submitted that the petitioner was in prison for a considerable period and therefore, a lenient view may be taken.

10. Considering the facts and circumstances of the case and the submissions made by the learned Counsel for the petitioner, this Court is inclined to modify the sentence imposed by the lower appellate Court.

11. In the result, the conviction recorded by the learned I Additional District & Sessions Judge, Srikakulam against the petitioner-accused for the offence under Section 304-A IPC is confirmed. However, the period of sentence of six months simple imprisonment imposed for the said offence is set aside, while maintaining the sentence of fine imposed for the said offence with default sentence. Further, the petitioner is directed to pay additional fine of Rs.8,000/- in default to suffer simple imprisonment for two months.

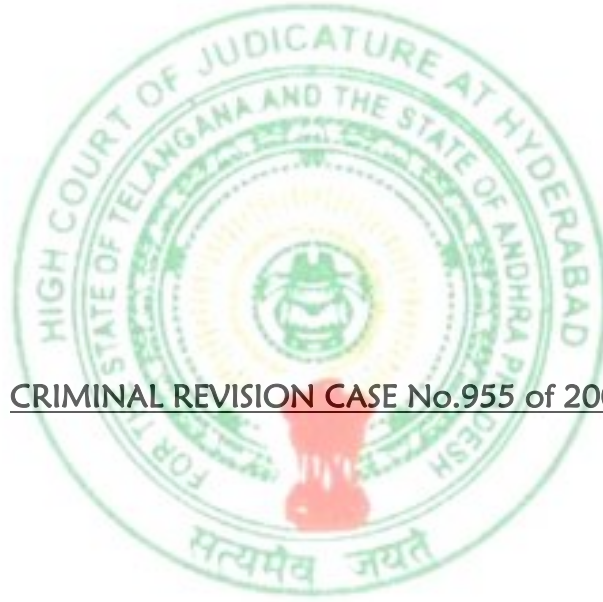
12. Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated:1st September, 2016

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1.9.2016

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